

321 CMR: DIVISION OF FISHERIES AND WILDLIFE.

321 CMR 3.02: HUNTING.

**3.02: HUNTING, PARTICULAR GAME.**

(5) Hunting and Trapping of Certain Mammals. In accordance with the authority found in M.G.L. c. 131, § 5, and subject to 321 CMR 3.02(5), the annual open seasons for the hunting and trapping of certain mammals are hereby adopted.

(a) Definitions. For the purposes of 321 CMR 3.02(5), the following words or phrases shall have the following meanings.

Beaver dam means an obstruction comprised of an aggregate of sticks and mud, which may additionally include natural vegetation or stones, constructed by beaver and which impounds or has impounded the flowage of water along a stream or other water body or through or over a water control structure.

Beaver lodge means a den comprised of an aggregate of sticks and mud which is constructed or built by beaver and which is either free-standing in water or connected to an embankment, but excluding holes or burrows which lack a visible or external aggregate of sticks and mud.

Bobcat means the bobcat or wildcat (*Felis [Lynx] rufus*) but not the lynx or Canada lynx (*Felis [Lynx] canadensis*).

Box or cage type trap means a trap that confines the whole animal without grasping any part of the animal.

Conibear type trap means “Conibear”-model traps and similar body-gripping traps and devices, whether or not enclosed in or comprising part of a box, tube, or other enclosing device.

Director means the Director of the Massachusetts Division of Fisheries and Wildlife or his authorized agent.

Division means the Massachusetts Division of Fisheries and Wildlife, 251 Causeway Street, Suite 400, Boston, MA 02114-2104.

Environmental Police Officer or EPO means the Director of the Division of Law Enforcement, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, and such other enforcement officers of the Division of Law Enforcement as may be appointed pursuant to M.G.L. c. 21A, § 10A.

Fox means the red fox (*Vulpes vulpes*) and the gray fox (*Urocyon cinereoargenteus*).

Fur-bearing mammals means all mammals in the Class Mammalia, as defined in M.G.L. c. 131, § 1.

Gender means, unless the context requires otherwise, that words importing the masculine gender shall include the feminine and neuter.

Green pelt means a pelt which has not been dried, cured, or tanned.

Hunt, for the purposes of 321 CMR 3.02(5)(b)1. through 3., “hunted” or “kill or take by hunting” means a process excluding the use of traps.

Raw pelt means a green pelt which has been dried, fleshed, or cured.

State means the several states, territories, and possessions of the United States of America, and any foreign nation and any political subdivision, possession, or occupied area thereof.

Zone or Zones means the Massachusetts wildlife management zones as described in 321 CMR 3.02(4)(o).

Weasel means the ermine or short-tailed weasel (*Mustela erminea*) and the long-tailed weasel (*Mustela frenata*).

(b) Management Measures. Notwithstanding any municipal bylaw or ordinance to the contrary, the following management measures are hereby adopted and effective.

1. No trap may be used, set, placed, maintained, or possessed for the purpose of capturing fur-bearing mammals pursuant to 321 CMR 3.02(5), except for box or cage type traps or common type rat traps.

2. Opossum and raccoon may be hunted throughout Massachusetts, with or without the use of dogs, except as provided in M.G.L. c. 131, § 70, from October 1 to the following January 31, except that raccoon and opossum may be taken only by trapping during the shotgun deer season as specified in 321 CMR 3.02(4)(b)3.

3. During the period from sunset of one day to sunset of the following day, a person shall not kill or take by hunting more than three raccoons, nor shall two or more persons hunting in one party kill or take by hunting more than six raccoons.

4. A person shall not remove or attempt to remove a beaver, bobcat, coyote, fisher, fox, mink, muskrat, opossum, raccoon, or river otter from any hole in the ground, stone wall, from within any ledge, or from under any stone, or from any hole in any log or tree.

5. Coyote, fox, and weasel may be taken by trapping throughout Massachusetts from November 1 to the following November 30.

6. Bobcat may be taken by trapping only in Zones 01 through 08 from November 1 to the following November 30.

7. Fisher may be taken by trapping throughout Massachusetts from November 1 to the following November 22.

8. Mink and river otter may be taken by trapping throughout Massachusetts from November 1 to the following December 15.

9. Muskrat may be taken by trapping throughout Massachusetts from November 1 to the following last day of February.

10. Beaver may be taken by trapping throughout Massachusetts from November 1 to the following April 15.

11. Raccoon, opossum, and skunk may be taken by trapping throughout Massachusetts from November 1 to the following last day of February.

12. In addition to the provisions of 321 CMR 3.02(5)(b)5. through 10., ~~the pelts of all beaver, bobcat, coyote, fisher, fox, wild mink, and river otter taken~~ **or salvaged** ~~shall not be sold, exchanged, bartered, retained by the trapper, or otherwise disposed of until the pelts have first been~~ **be** brought to a designated representative of the Division and sealed with an official seal by said representative. Seals shall be non-transferable and shall be valid only for the pelt or animal to which applied by the designated Division representative. Seals shall remain attached to the pelt **or animal** until the pelt is dressed or tanned, or prepared for mounting by a taxidermist, **or the animal is otherwise disposed of.** ~~The pelts of all~~ **B**eaver, coyote, fisher, fox, mink, and river otter shall be sealed no later than four working days after the closing day of the open season for that species. ~~The pelts of~~ **B**obcat shall be sealed no later than four working days after the date the bobcat was taken. Working days are defined as the days Monday through Friday inclusive, except legal state holidays as defined in M.G.L. c. 4, § 7(18).

13. No raw beaver, bobcat, coyote, fisher, fox, gray wolf, lynx, marten, mink, or river otter pelt, regardless of state of origin, shall be sold, exchanged, bartered, or offered for sale, exchange, or barter within Massachusetts unless said pelt bears an official tag, seal, or stamp issued or applied by the state within which said beaver, bobcat, coyote, fisher, fox, gray wolf, lynx, marten, mink, or river otter was taken, or by another governmental jurisdiction empowered to tag, seal, or stamp such pelts. Such tag, seal, or stamp shall be identifiable as to the issuing jurisdiction. No person shall alter, tamper with, or reapply any such tag, seal, or stamp, nor possess any altered, tampered, or reapplied tag, seal, or

stamp (except if such tag, seal, or stamp is destroyed to such a degree that it cannot be reapplied), or any pelt bearing the same.

14. Except as otherwise provided for in M.G.L. c. 131, and 321 CMR 3.02(3), those mammals named in the last paragraph of M.G.L. c. 131, § 5, may be hunted from January 1 to the following December 31, all dates inclusive, except during the shotgun deer season as provided for in 321 CMR 3.02(4)(b)3.a.

(c) Authorized Means of Trapping-- Live Restraining Traps and Sets.

1. a box or cage type trap when tended, used, or set to insure that the device captures only one mammal at a time. Bailey and Hancock beaver traps and other suitcase type traps of similar design may be used only for the taking of beaver, and in accordance with 321 CMR 3.02(5)(c)2. and 3.;

2. Bailey and Hancock beaver traps and other suitcase type cage traps of similar design shall not be used unless the person using, placing, setting, tending, or maintaining such trap has completed a training session in the proper use of such trap and has been issued a certificate of completion of such training. Such traps may be used only for the taking of beaver. The Director is hereby authorized to coordinate with the Director of Law Enforcement in establishing such training course and to provide for the issuance of certificates to such persons as shall have satisfactorily completed the training. Such certificate shall be carried on the person when using such traps, and the certificate shall be shown upon demand to any officer empowered to enforce the provisions of M.G.L. c. 131; and

3. Bailey and Hancock beaver traps and other suitcase type cage traps of similar design shall not be used except when set in water, or when set upon a beaver lodge or beaver dam, snag, stump, rock, or other above-water protrusion entirely or substantially surrounded by water. In addition, whenever and wherever set, the pan of such traps must be completely submerged in water.

(d) Authorized Means of Trapping-- Kill Traps and Sets.

1. Common type rat traps for the taking of weasel;

2. Conibear-type traps may be used only in accordance with 321 CMR 2.08 and 321 CMR 2.14(24).

(e) Prohibitions. Except as otherwise provided for in M.G.L. c. 131 and 321 CMR, it shall be unlawful for any person:

1. to have in his possession the green pelt of any fur-bearing mammal or any part of such pelt except during the open season for such mammal and for ten days thereafter;

2. to possess or have under his control a trap on land of another in any place where fur-bearing mammals might be found between April 16 of any year and 6:00 A.M. on the following November 1;

3. to possess or have under his control an unregistered trap on land of another in any place where fur-bearing mammals may be found;

4. to possess or have under his control unless duly authorized as provided for in M.G.L. c. 131, § 80, and 321 CMR 3.02(5)(e)14. the registered trap of another;

5. to trap on land of another posted as provided for in M.G.L. c. 131, § 36 without the written permission of the owner or tenant of such land;

6. to trap in a public way, cart road, path or other way commonly used as a passageway for human beings or domestic animals;

7. to tear open, disturb, or destroy a muskrat lodge, beaver lodge or beaver dam, except as provided in 321 CMR 2.08;

8. to trap with a trap designed to take more than one mammal at a time.

9. to trap on land with a Bailey or Hancock beaver trap or other suitcase type cage trap of similar design, except when set upon a beaver dam or beaver lodge, snag, stump, rock,

or other above-water protrusion entirely or substantially surrounded by water, or, when the pan of such trap is not completely submerged;

10. to trap with a Bailey or Hancock beaver trap or other suitcase type cage trap of similar design without having completed a training session and having been issued a certificate of completion as provided for in 321 CMR 3.02(5)(c)2., or to fail to carry such certificate on one's person when using such traps;

11. to fail to visit and remove all animals trapped in, at least once in each calendar day between the hours of 4:00 A.M. and 10:00 P.M., all traps by him staked out, set, used, tended, placed, or maintained;

12. to destroy, mutilate, spring, or remove the trap of another;

13. to take any fur-bearing mammal from the trap of another unless he has on his person a specific written authorization to do so, signed by the owner of such trap. The owner of traps may give such authorization to any person licensed to trap under M.G.L. c. 131 for a period not to exceed one week from the day the traps were last tended, provided that notice of the giving of such authorization including the name and trapping license number of the person so authorized shall be given to the regional Environmental Police Officer and to the Director within 24 hours of the giving of such authorization; and

14. to set, use, place, locate, tend, or maintain a trap not bearing on a metal tag the name, town of residence and trap registration number of the person or persons using the same in a manner as to be legible at all times. Said registration number shall be permanently embedded in or marked on the traps with letters and figures not less than  $\frac{1}{4}$  inches high in such a manner as to be legible at all times.

(f) Trapper Training Course. No person shall, after September 1, 1989, be issued a trap registration certificate or a certificate of partnership pursuant to M.G.L. c. 131, § 80, or trap on land of another unless such person has completed a trapper training course and been issued a certificate of completion of such training, or unless such person has been issued a resident or non-resident Massachusetts trapping license or trap registration certificate or certificate of partnership in a previous year and shall prove the same to the satisfaction of the Director. The Director is hereby authorized to coordinate with the Director of Law Enforcement in establishing such training course and the curriculum thereof and to provide for the issuance of certificates to such persons as shall have satisfactorily completed the training. Nothing in 321 CMR 3.02(5)(f) shall be construed to limit the issuance of free resident sporting licenses to persons aged 70 and over.

(g) Presumption. Registered traps set, used, maintained or tended in violation of 321 CMR 3.02(5)(b), (c) and (d) shall be prima facie evidence that such traps were set, used, maintained, or tended by the registered owner thereof, unless such owner has notified the Division of Law Enforcement in writing within 48 hours of the loss or theft of such registered traps, the number and type of traps, and the date, time, place, and circumstances of such loss or theft. Such notification shall be signed under the pains and penalties of perjury.

(h) Forfeitures. Any trap or trapping device set, used, maintained, or tended in violation of law and any fur-bearing mammals or other nondomesticated animals caught therein shall be seized by any officer empowered to enforce M.G.L. c. 131 and shall, in accordance with M.G.L. c. 131 and c. 257, be forfeited to the Commonwealth and disposed of by the Director of Law Enforcement to the best interests of the Commonwealth.

(i) Licensed Furdealer Reports. Licensed fur dealer report books provided for by M.G.L. c. 131, § 28 shall be initialed by an Environmental Police Officer prior to submission to the Division and it shall be the responsibility of the licensee to contact the EPO for that purpose.

(j) Limitations. Nothing in 321 CMR 3.02(5) shall be deemed to limit any other provision

of M.G.L. c. 131 or any rule or regulation issued under authority thereof.

(k) Savings Clause. If any part, section, subsection, division, or subdivision of 321 CMR 3.02(5) or the application thereof is held invalid, unconstitutional, or inoperative as to any particular person, persons, or conditions, the remainder thereof or the application of any such part, section, subsection, division, or subdivision to other persons and conditions shall not be affected thereby.

Regulatory Authority: M.G.L. c. 131, § 5.

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